



UNITED STATES DEPARTMENT OF COMMERCE
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Paper No. 17

LERNER AND GREENBERG
P O BOX 2480
HOLLYWOOD , FL 33022-2480

Mailed

MAY 4 2000

**Director's Office
Group 2700**

In re Application of:
Michael Becker
Application No.: 08/987,889
Filed: December 10, 1997
For: SOUND SYSTEM FOR A MOTOR
VEHICLE AND METHOD FOR
DEFINING A FUNCTIONAL SCOPE
OF A SOUND SYSTEM

DECISION ON PETITION TO
WITHDRAW HOLDING OF
ABANDONMENT

This is in response to the letter filed by facsimile on April 7, 1999, which is treated as a petition to withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the final Office action mailed April 21, 1999. A Notice of Abandonment was mailed February 1, 2000.

Petitioner asserts that a proper response was timely filed. In support of the petition, petitioner submits a copy of date stamped post card receipt acknowledging receipt of a Notice of Appeal, mailing certificate, and a check in the amount of \$410.00 in the Patent and Trademark Office on August 27, 1999. However, a copy of the items listed on the post card receipt have not been provided.

The original response is not of record in the file and cannot be located. M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon on the date stamped thereon by the PTO". Accordingly, it is concluded that the Notice of Appeal and Extension request were received in the PTO but not matched with the application file.

The date stamped on post card of August 27, 1999, is after the expiration of the time period set for response with a proper petition for 2 months extension of time as requested. However, under 37 C.F.R. 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal

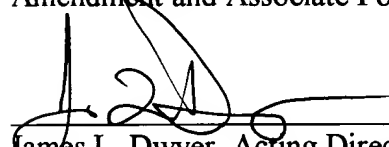
Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The Notice of Appeal which includes a request and authorization to charge the fee for a one month extension of time bears a proper certificate of mailing dated August 23, 1999, and is considered as timely filed in accordance with 37 U.S.C. 21, and 37 C.F.R. 1.7 since the response would have been due August 21, 1999 which was a Saturday and the petition was filed on the next succeeding business day, Monday, August 23, 1999.

For the reasons stated above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file is being forwarded to the Technology Center's technical support staff for entry of the Notice of Appeal. The CPA request, Petition for Extension of time and fee, Preliminary Amendment and Associate Power of Attorney filed January 27, 2000 are hereby acknowledged.



James L. Dwyer, Acting Director
Technology Center 2700
Communications & Information Processing